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CONTINUED FROM AF FORM 938, BLOCK #19 : RKS AN 36-8001)

MARGARET WITT 0000 D -04285 03 JAN 2003

exempt from the five-year limit as provided in 38 USC 4312(c) (4) (B). Dates of leave and travel are inclusive.

DEPARTMENT OF THE AIR FORCE HEADQUARTERS AIR RESERVE PERSONNEL CENTER DENVER COLORADO 80280-5000

RESERVE ORDER DA-02112

18 MAR 1996

POINT OF CONTACT: Cookie Partee, DSN 926-6429 COMM 1-800-525-0102 EXT 410.

CPT WITT MARGARET H 7037 GRANDVIEW PARK GIG HARBOR WA 98335

SSN: EDCSA: 13 APR 1996

AAN: 0460MT2013 RR/DATE: 16 DEC

AAR: VOLUNTEER FOR REASSIGNMENT (RU)

RESERVE STATUS: READY

MEMBER IS RELIEVED FROM: HQ AIR RESERVE PERSONNEL CENTER/S73IFZ6M/RD

ASSIGNED TO: 446 AEROMED EVAC SQ MCCHORD AFB WA 98438

UNIT MPF: 446 MSS/DPMAE 1205 12TH ST NE RM 102W MCCHORD AFB WA 98438-1326

TRAINING ATTACH/PAS: /

RES SEC/ASGND PAS: AI/T21LFLW0 DUTY LOC: PQWY TRNG CAT/TYPE OF ASGN: A/UNIT REC ID: HO4M POS#: 0529262 AUTH GRADE: CPT AUTH AFSC: X46F3 DAFSC: X46F3 SECURITY CLEARANCE DATA: SECRET/NAC/870721

NO TRAINING WILL BE PERFORMED BEFORE THE EFFECTIVE DATE: 13 APR 1996

MEMBERS DATE LAST PHYSICAL IS: AT AGE 25 OR THREE YEARS OLD STARTING AT AGE 40 (ONE YEAR FOR RATED PERSONNEL) OR IF THIS DATE IS OVER FIVE YEARS OLD STARTING BLANK, A MEDICAL EXAM IS REQUIRED WITHIN 90 DAYS OF EDCSA OR THE DATE OF THE ORDERS WHICHEVER IS LATER. RATED PERSONNEL; A FLYING CLASS II PHYSICAL IS REQUIRED FOR PA CAT A AND B ASSIGNMENTS. THIS ORDER AUTHORIZES SCHEDULING THE REQUIRED EXAM. IF AN EXAM IS NOT COMPLETED, ORDERS WILL BE ISSUED TO REASSIGN YOU TO HQ ARPC INACTIVE

AFI 36-2903 AND AFI 40-502 STANDARDS APPLY.

REMARKS: UNIT POC IS DAVE LANGFORD DSN 984-5434 COMM 206-984-5434. DUTY TITLE FLIGH:

FOR THE COMMANDER

OFFICIAL

B. ROSE WEINRICH DEPUTY DIRECTOR OF PERSONNEL

Case 3:06-cv-05195-RBL Document 119-5 Filed 07/22/10 Page 4 of 61 VETERANS" A . ONAL ASSISTANCE ACT L A NEW GI BILL) (Chapter 30, Title 38, U.S. Code) **AUTHORITY:** Privacy Act Statement Chapter 30, Title 38, US Code, Sections 1411 and 1412; and EO 9397, November 1943 (SSN) PRINCIPAL PURPOSE: To establish eligibility to participate in the Veterans' Educational Assistance Act of 1984 (Ne ROUTINE USES: Information will be used as a source document indicating participation status of each service member in the New GI Bill Educational Benefits Program. DISCLOSURE: Disclosure of your social security number and other personal information is voluntary. However, this form CANNOT be processed if requested information is not provided. 1. SERVICE MEMBER a. NAME (Last, First, Middle Initial) Witt, Magaret H. b. SOCIAL SECURITY NUMBER (SSN) 2. STATEMENT OF UNDERSTANDING a. I am eligible for the New GI Bill based on my initial entry on active duty on or after July 1, 1985. b. | Lunderstand that I am automatically enrolled and that I have the option to disenroll. (See paragraph 3 or 4) d. I am a Service academy or ROTC scholarship graduate and I am NOT ELIGIBLE for the New GI Bill. (Xifapplicable) e. I understand that if enrolled in the New GI Bill, my basic pay will be reduced \$100 per month for EACH of the first full 12 months of active duty and CANNOT BE REFUNDED, SUSPENDED OR STOPPED. I must complete three years of active duty service before I am entitled to \$300 per month for 36 months. g. If I have a two year obligation, I understand that I must complete two years of active duty to receive \$250 per month h. I must complete two years of active duty service and join the Selected Reserve for a minimum four year service If a non-high school graduate, I must complete all requirements for a high school diploma (or an equivalency certificate) before completion of my initial tour in order to qualify for the New GI Bill. I must use my benefits within 10 years of my separation or discharge from active duty for the entitlement in paragraph 2.g., or complete my Selected Reserve obligation for the entitlement in paragraph 2.h. I must receive an honorable discharge for service which established entitlement to the New GI Bill. (1) TYPED OR PRINTED NAME (Last, First, Middle Initial) Witt, Margaret H. (2) RANK/GRADE 0-1/2 Lt (3) SIGNATURE m. WITNESSING OFFICIAL (4) DATE SIGNED 111 (1) TYPED OR PRINTED NAME (Last, First, Middle Initial) W/ 1/1 Schleng, Joseph J. (2) RANK/GRADE (3) SIGNATURE E-3/A1C 3. STATEMENT OF ENROLLMENT (4) DATE SIGNED I am enrolling in the "New GI Bill" and ACCEPT THE TERMS OF 2.a. through k. ノモご a. SERVICE MEMBER (1) TYPED OR PRINTED NAME (Last, First, Middle Initial) Witt, Margaret H. (2) RANK/GRADE (3) SIGNATURE b. WITNESSING OFFICIAL 0-1/2 Lt (4) DATE SIGNED Contract of (1) TYPED OR PRINTED NAME (Last, First, Middle Initial) 12110 Schleng, Joseph J. (2) RANK/GRADE (3) ŞIGNATURE E-3/AIC STATEMENT OF DISENROLLMENT JCZ (4) DATE SIGNED I do not desire to participate in the New GI Bill. | understand that I WILL NOT be able to enroll at a later date. a. SERVICE MEMBER (1) TYPED OR PRINTED NAME (Last, First, Middle Initial) (2) RANK/GRADE (3) SIGNATURE b. WITNESSING OFFICIAL (4) DATE SIGNED (1) TYPED OR PRINTED NAME (Last, First, Middle Initial) (2) RANK/GRADE (3) SIGNATURE 5. SERVICE UNIQUE EDUCATION ASSISTANCE OPTIONS (4) DATE SIGNED If I enroll in the New GI Bill, I may be eligible for additional educational assistance based on my military specialty and/or years of service as shown below.

Open period eligible applicant has been counseled that a total of \$1200 must be reduced from his/her basic pay to establish eligibility for the MGIB and that all MGIB basic pay reductions are non-refundable under law. Individual will indicate understanding

CLASSIFICATION/ON-THE-JOB TRAINING ACTIONS

WITT MARGARET H 57 AES

CPT SGS

14 JUL

PERSONNEL DATA CHANGES

AFSC INFORMATION

AVARD AFSC 046S3 AS PRIMARY AFSC DAFSC EFFECTIVE DATE 950731

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2AFSC FROM 046F3 TO N/C

3AFSC FROM
WITHDRAW AFSC

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OFFICE SYMBOL SGS
DUTY PHONE 6182565088

POSITION NO. COMD LVL
CLASS UPC DOT DUTY TITLE CH MED AIRCREW STAN EVAL

WITHDRAW AFSC CLASS UPG DT REQUESTING OFFICIAL: LAURA E. BAUGH, TSGT,

NCOIC, ORD RM

DATE: 950712

APPROVAL BY CMDR OR
AUTHORIZED REP:

LAURA E. BAUGH, TSG
NCOIC, ORD RM

DATE: 9:

DATE: 950712

ACTION BY MPF X APPROVED DISAPPROVED

OFFICIAL: JAMES H. COLEMAN JR., SRA DATE: 950714 NOTE: AFMPC AND/OR MAJCOM APPROVAL/DISAPPROVAL IS REQUIRED FOR DAFSC CHANGES, PCAS (EXCEPT SUPPORT AND NONRATED OPERATIONS), AND COLONELS DUTY TITLE CHANGES.

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CLASSIFICATION/ON-THE-JOB TRAINING ACTIONS

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DATE: 950711

REQUESTING OFFICIAL: LAURA. E. BAUGH, TSGT DATE: 950711

APPROVAL BY CMDR OR

AUTHORIZED REP: LAURAE. BAUGH, TSGT DATE: 950711

NCOIC, ORD RM

ACTION BY MPF X APPROVED DISAPPROVED

OFFICIAL: JAMES H. COLEMAN JR., SRA DATE: 950712 PERSONNEL EMPLOYMENT

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PERSONNEL DATA CHANGES

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MEMBERS CONCURRENCE DO DO NOT CONCUR

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DATE: 940701

APPROVAL BY UMDR OR

LAURA E. BAUGH, TSGT NCOIC, ORD RM

DATE: 940701

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OFFICIAL: NANCY M TAULBEE, TSGT, USAF DATE: 940708

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	15. PRESENT ASSIGNMENT AND ATTACHMENT (Indicate military branch, unit address, training, and retirement category)	16 ASSIGNMENT
	HQ ARPC/DPRB	16. ASSIGNMENT DESIRED (Indicate unit preferred, specific program training, and retirement category or description of type of training
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	17. MILITARY SCHOOLS ATTENDED (Indicate date, course number and title, and location.)	TAI/ IKNG A
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	NSM FLIGHT SCHOOL NOV 91	qualifications for assignment requested)
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d	9. CIVILIAN EDUCATION (Indicate years completed, major subject, and	20
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21. FOR INDIVIDUALS REQUESTING ASSIGNMENT TO A TRAINING SITE BEYOND 100 MILES OF 3 HOURS ONE-WAY DRIVING TIME (AFR 35-41, VOLUME I). Tacknowledge my responsibility for any hardships, including financial, incurred in performing the duties of the assignment. Lunderstand I will not be reimbursed for travel expenses incurred for inactive duty training. I CERTIFY THAT THE DATA CONTAINED HEREIN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I ALSO ACKNOWLEDGE THAT UPON MY RESERVIST, I SHALL BE SUBJECT TO INVOLUNTARY ORDER TO ACTIVE DUTY IN TIME OF WAR OR NATIONAL EMERGENCY DECLARED BY THE PRESIDENT, OR WHEN OTHERWISE AUTHORIZED BY LAW.

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ANG/USAFR POINT CREDIT SUMMARY

MAJ WITT, MARGARET H 1022 W 19TH AVE SPOKANE, WA 99203-0000 DATE PREPARED : 23 MAY 2005

T21LFLWO AI 0324 23 MAR 2005 180000

RRPCSF

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AF FORM 526

(COMPUTER GENERATED)

AF000660

Mon May 23 18:51:41 2005 PERSONAL DATA - PRIVACY ACT OF 1974 (USC 552a)

TOTAL POINTS AD ACCRUED THRU 20050323 3537

MBR 253

TOTAL 04338

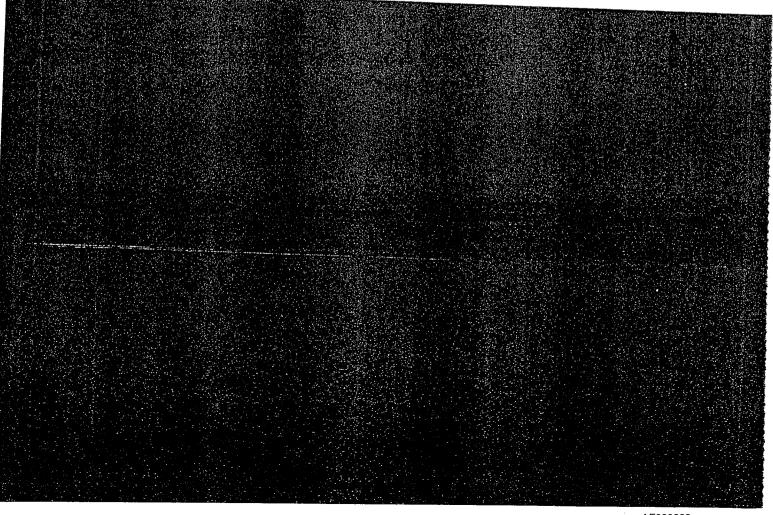
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CAUTION: NOT TO BE USED FOR IDENTIFICATION PURPOSES ANY ALTERATIONS IN SHADED AREAS RENDER FORM VOID CORRECTION TO DD FORM 214, CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY 1. NAME (Last, First, Middle) 2. DEPARTMENT, COMPONENT AND BRANCH WITT HARCARET 3. SOCIAL SECURITY NUMBER MELRE AIR FURCA -- USAFR 4. MAILING ADDRESS (Include ZIP Code) (Also, Service Number if applicable) 1022 WEST 19TH AVE SPOKANZ WA 99203 5. ORIGINAL DD FORM 214 IS CORRECTED AS INDICATED BELOW: ITEM NO. CORRECTED TO READ SEPARATION DATE ON DD FORM 214 BEING CORRECTED: 2003 JUL 30 OPERATION EXPURING PREEDOM SHOULD BE OPERATION SOUTHERS PAICH 12. 6. DATE 7. OFFICIAL AUTHORIZED TO SIGN (YYYYMMDD) a. TYPED NAME (Last, First, Middle Initial) b. GRADE Care, Personas d. SIGNATURE BARRE, JEFFERY L. MSGT RELOCATIONS DD FORM 215, FEB 2000 PREVIOUS EDITION IS OBSOLETE. SERVICE - 7



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Case 3:06-cv-05195-RBL Document 119-5 Filed 07/22/10 Page 17 of 61

CAUTION: NOT TO BE USED FOR IDENTIFICATION PURPOSES THIS IS AN IMPORTANT RECORD. JJI CERTIFICAT OF RELEASE OR DISCHARGE FROM ACTIVE DUTY ANY ALTERATIONS IN SH AREAS RENDER FORM 1. NAME (Last First Middle) WITT MARGARET HELEN 2. DEPARTMENT, COMPONENT AND BRANCH 4.a. GRADE, RATE OR RANK AIR FORCE -- REG AF 3. SOCIAL SECURIT 4.b. PAY GRADE 5. DATE OF BIRTH (YYMMDD) 03 7.a. PLACE OF ENTRY INTO ACTIVE DUTY 6. RESERVE OBLIG. TERM. DA 7.b. HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known) TACOMA WA 8.a. LAST DUTY ASSIGNMENT AND MAJOR COMMAND 375 AES (AMC) 8.b. STATION WHERE SEPARATED 9. COMMAND TO WHICH TRANSFERRED SCOTT AFB NOT APPLICABLE 11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving 0.4683 - OPERATING ROOM NURSE, 5 YEARS 10. SGLI COVERAGE None Amount: \$ 200,000 12. RECORD OF SERVICE a. Date Entered AD This Period Year(s) Month(s) Day(s) 1987 X046F3 - AIRCREW FLIGHT NURSE, 3 YEARS, b. Separation Date This Period Apr 29 c. Net Active Service This Period 1995 Dec 15 d. Total Prior Active Service 08 07 17 e. Total Prior Inactive Service 00 00 00 00 f. Foreign Service 01 05 02 13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service) g. Sea Service 07 MERITORIOUS SERVICE MEDAL, AF COMMENDATION MEDAL, AF ACHIEVEMENT MEDAL 00 WITH ONE OAK LEAF CLUSTER, AF OUTSTANDING UNIT AWARD WITH TWO OAK LEAF 11 CLUSTERS, COMBAT READINESS MEDAL WITH BRONZE STAR, SMALL ARMS (SEE REMARKS 14. MILITARY EDUCATION (Course title, number of weeks, and month and year completed) MILITARY INDOCTRINATION MEDICAL SERVICE OFFICER, 2 WKS, APR 87. SERVICE MANAGEMENT, CORRESPONDENCE, MAY 88. BATTLEFIELD NURSING CRSE, 2
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Case 3:06-cv-05195-RBL Document 119-5 Filed 07/22/10 Page 18 of 61

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WITT MARGARET HELEN

NANCY M! TAULBEE, MSgt, USAF SUPT, Retirements & Separations

CIV-OCCUPATION: REGIST-NURSE

MAILING ADDRESS: 1022 W 19TH AVE SPOKANE WA 99203-0000

RELIGION: LUTHERAN CHURCHES

TOTAL DEPEN:

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******** PERSONAL DATA *****

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PERSONAL DATA - PRIVACY ACT OF 1974 (USC 552a) *RECORD REVIEW RIP*

SECURITY CLEARANCE: SECRET

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GR-PERM-DOR-PSD: 01 OCT 1999

CURRENT: MAJ

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MAJ WITT, MARGARET H

(PART II)

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MAJ WITT, MARGARET H

RECORD REVIEW RIP

******** DUTY ASSIGNMENT DATA ******** (PART IV)

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ALL DATES ON THIS RIP ARE IN DAY-MONTH-YEAR FORMAT. REMINDER: IF YOU WISH TO CHANGE PERSONAL OR DEPENDENT DATA CERTIFICATE(S), MARRIAGE LICENSE AND/OR OTHER LEGAL DOCUMEN IMAS, CONTACT HQ ARPC/DPSS, TOLL FREE 1-800-525-0102, EXTEN

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FOR:

MAJ WITT, MARGARET H,

TO THE BEST OF MY KNOWLEDGE, THE INFORMATION CONTAINED ON THIS FORM IS CORRECT AND COMPLETE, AS NOTED:



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS, 62D AIRLIFT WING (AMC)
MCCHORD AIR FORCE BASE, WASHINGTON

20 Oct 04

MEMORANDUM FOR 446 AW/CC

FROM: 62 AW/JA (Maj Torem)

SUBJECT: Commander Directed Report of Investigation of Alleged Homosexual Conduct of Major Margaret Witt, 446 AES

- 1. This letter memorandum presents my findings of fact, opinions, and recommendations as requested in your letter of 7 July 2004 appointing me to conduct a fact-finding inquiry into alleged homosexual activities by Major Margaret Witt, 446th Aeromedical Evacuation Squadron (AES). In sum, I have reached the conclusion that it IS more likely than not that Maj Witt has engaged in homosexual conduct and has a propensity to do so in the future. As fully explained and supported below by findings of fact and opinions reached through the investigative process, I recommend that you initiate the process to discharge Maj Witt from the United States Air Force in accordance with Air Force Instruction (AFI) 36-3209, Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members, paragraphs 2.30 and 4.12; accordingly, an administrative discharge board should be appointed per AFI 36-3209, para 4.12 through 4.18.
- 2. Scope and Authority. On 7 July 2004, 4 AF/CC sent a memorandum to 446 AW/CC granting authority to conduct a fact-finding inquiry into alleged homosexual conduct by Major Margaret Witt, 446 AES. That same day, 446 AW/CC appointed the undersigned Major Adam E. Torem, a "Category B" JAG Reservist (IMA) attached to 62 AW/JA, to conduct the inquiry into whether Maj Witt had engaged in homosexual activities and then file aureport detailing facts, opinions, and recommendations no later than 23 July 2004 (see Tab 1). In coordination with 446 AW/JA, you subsequently extended this deadline to 20 October 2004.
- 3. Introduction: Background and Allegations. On 14 June 2004, Mr. Patrick McChesney, a 54 year old civilian man residing in Spokane, Washington, sent an electronic mail message to General John Jumper, HQ USAF/CC. Mr. McChesney alleged that Laurie McChesney, his wife of over 20 years, had left him for another woman in December 2003: Major Margaret Witt. The e-mail contained specific allegations, including the name of Major Witt's previous long-term lesbian partner, Tiffany Jenson, and also focused on Mr. McChesney's anger at Major Witt's adulterous behavior and its impact on his marriage and his family. Attached to the e-mail were several copies of declarations filed in the pending McChesney divorce action which asserted that Laurie McChesney and Maj Witt were engaged in a homosexual extramarital affair (see Tab 2).

General Jumper's staff forwarded this e-mail through AFRC to Maj Witt's command. Review of the e-mail and the information it contained led to 446 AW/CC seeking and receiving approval

from 4 AF/CC to initiate this inquiry. Mr. McChesney's e-mail and its allegations raised the following specific issues:

Specific Allegations Investigated

- A.1. Was Maj Witt previously engaged in a long-term committed homosexual relationship with another woman, Tiffany Jenson?
- A.2. If so, did Maj Witt engage in homosexual conduct with Tiffany Jenson?
- B.1. Is Maj Witt now engaged in a homosexual extramarital affair with another woman, Laurie McChesney (complainant Pat McChesney's wife)?
- B.2. If so, is Maj Witt engaging in homosexual conduct with Laurie McChesney?
- C. Has Maj Witt made comments to others indicative of her homosexual orientation?

In accordance with AFI 36-3209, para 2.30.1, as well as the definitions contained in Atch 11 to that regulation, affirmative answers to any of the above questions would constitute homosexual conduct and therefore <u>require</u> Maj Witt's discharge from the U.S. Air Force Reserve.

4. Chronology of Events. The following sequence of events is important to this investigation:

<u>DATE</u>	<u>EVENT</u>
14 Jun 04	Mr. McChesney's e-mail to Gen Jumper alleging that Maj Witt has engaged in homosexual acts and adultery with Laurie McChesney, his wife, leading to Mr. McChesney seeking a divorce
Jun/Jul 04	446 AW/CC seeks 4 AF/CC approval to conduct formal inquiry
07 Jul 04	4 AF/CC authorizes 446 AW/CC to proceed with formal inquiry
07 Jul 04	446 AW/CC appoints Maj Torem to conduct formal inquiry
07-13 Jul 04	Maj Torem contacts potential witnesses in Spokane, WA
14 Jul 04	Maj Torem travels to Spokane, WA, to conduct interviews of Mr. Patrick McChesney and Ms. Tiffany Jenson
24 Jul 04	Maj Torem meets with Col Mary Walker, 446 AES/CC and attempts to interview Maj Witt (aborted due to scheduling conflict)
25 Jul 04	Maj Torem informs Maj Witt of allegations against her and explains her rights under AFI 36-3209 (but <u>not</u> under UCMJ)
27 Jul 04	James Lobsenz, civilian attorney for Maj Witt, contacts Maj Torem to request information supporting allegations against Maj Witt;

4. Chronology of Events (continued).

DATE	EVENT
27 Jul 04 (cont.)	Maj Torem provides contact information for Area Defense Counsel (ADC) at McChord AFB
6 Aug 04 to 7 Sep 04	Temporary Delay in Investigation – Family Crisis for Maj Torem
8 Sep 04	Maj Torem provides attorney Lobsenz with copy of sworn witness statement made by Mr. McChesney and summary of interview with Ms. Jenson; Maj Witt's response requested no later than 14 Sep 04
13 Sep 04	Attorney Lobsenz contacts Maj Torem seeking extension of response deadline to allow consultation with military defense counsel. Attorney Lobsenz again referred to McChord AFB ADC, 446 AW/JA and, HQ AFRC to obtain military co-counsel for Maj Witt; extension granted to 15 Oct 04
14 Oct 04	Maj Witt declines to make any formal response to investigation

5. Investigation – Witness Interviews. Following various telephone contacts, an in-person interview of Mr. Patrick McChesney was conducted on 14 Jul 04, at his apartment in Spokane, WA. Shortly thereafter, he provided a sworn written statement dated 19 Jul 04 (see Tab 3). In addition to Mr. McChesney's sworn confirmation of his original allegations, an inconducted on 14 Jul 04 at a Starbuck's coffee shop in Spokane, WA. Although Ms. Jenson was cooperative and willing to be interviewed regarding her first-hand knowledge of Maj Witt's homosexual conduct, she did not wish to provide a written statement against Maj Witt, Instead, witnesses provided the following information (see actual statements for full details):

5A. Mr. McChesney. He was married to Laurie McChesney for over 22 years. Laurie has worked with Maj Witt in her civilian capacity as a physical therapist for the Spokane Public School District since approximately December 2000; Laurie is Maj Witt's assistant. Within months of beginning to work with Maj Witt, Laurie McChesney informed her husband that Maj Witt was a homosexual and residing with her lesbian lover, Tiffany Jenson. Laurie McChesney and Maj Witt became close friends and the entire McChesney family would socialize with both Maj Witt and Ms. Jenson. Pat McChesney even installed a wireless intranet computer system in Maj Witt's home as recently as November 2003. Shortly thereafter, Maj Witt and Ms. Jenson ended their relationship due to a disagreement over whether or not Ms. Jenson should bear a child. In the weeks thereafter, Laurie McChesney and Maj Witt began to spend more and more time together, making Pat McChesney suspicious of the nature of their relationship. Some time thereafter, in December 2003, Pat McChesney determined that his wife and Maj Witt had initiated a romantic relationship. According to Pat McChesney, his wife actually admitted to

other family members that she and Maj Witt were engaged in homosexual acts together. Given these circumstances, Pat McChesney filed for divorce from his wife of over 22 years.

- 5B. Ms. Jenson. She met Maj Witt in 1996 while they both attended an advanced degree program in physical therapy. In July 1997, Ms. Jenson and Maj Witt became involved in a homosexual relationship. This relationship continued for over six years, until October 2003. During the course of their relationship, Ms. Jenson and Maj Witt engaged in homosexual acts. Ms. Jenson was aware of Maj Witt's service in the Air Force Reserve and, when Maj Witt traveled to the Tacoma area to perform military service, Ms. Jenson would often accompany her and stay off-base, usually at Maj Witt's parents' home in Gig Harbor, WA. Their relationship came to an impasse over Ms. Jenson's desire to have a child, via artificial insemination, and Maj Witt's eventual decision not to go through with such a plan. In early Fall 2003, Ms. Jenson went forward with this plan, announcing to Maj Witt on 31 Oct 03 that she was pregnant; this event drove the actual break-up of the relationship. Since that time, Ms. Jenson observed Maj Witt spend increasingly more time with Laurie McChesney and believes that they began their own romantic relationship before the end of 2003. Ms. Jenson knows that Maj Witt was previously involved in lesbian relationships, including one she personally observed during their time at physical therapy school (immediately preceded their own) and believes that Maj Witt may even have been active as a homosexual during her high school years.
- 5C. Laurie McChesney. Given her current and ongoing relationship with Major Witt, and in an attempt to maintain the relative secrecy of the investigation, no effort was made to interview Mrs. Laurie McChesney.
- 5D. Other Potential Witnesses. In his e-mail to Gen Jumper, Pat McChesney submitted copies of unsigned declarations filed in support of an early hearing in his dissolution action. These items were reviewed for background information, but no attempt was made to contact or interview the people involved in the McChesney divorce case.
- 6a. Investigation Subject Interview. The subject interview was conducted in accordance with AFI 36-3209, Attachment 11, as well as the procedures recommended in Attachment 4 of the Air Force Commander-Directed Investigation (CDI) Guide dated 1 Feb 00. Thus, Maj Witt was alerted to the reason for the interview and the negative information that had been provided against her, then advised that failure to respond truthfully would be a violation of Article 107 of the Uniform Code of Military Justice. Maj Witt was given the option of immediately providing a verbal or written response or having time to consider the allegations and, as necessary, seeking military or civilian legal counsel. Maj Witt requested time to collect her thoughts and determine an appropriate course of action. She was told to contact Maj Torem, either personally or through legal counsel, the following week. Two days later, James Lobsenz, a civilian attorney with the Seattle law firm of Carney Badley Spellman retained by Maj Witt, contacted Maj Torem to request copies of any evidence supporting the investigation (see Tab 5a). Due to a delay for personal reasons, Maj Torem was unable to provide the requested information until 8 Sep 04. Maj Torem asked that Mr. Lobsenz and Maj Witt submit any responsive statement no later than 14 Sep 04 (see Tab 5b). Mr. Lobsenz requested additional time to allow consultation with military defense counsel (see Tab 5c) and, eventually, he and Maj Witt decided that she would not make any response to the investigation (see Tab 5d).

- 6b. Investigation Observations from Subject Interview. Although Maj Witt did not provide any formal sworn statements, verbal or written, on 25 Jul 04, I was able to make various observations about her reaction to the allegations against her. From the outset, Maj Witt appeared shocked by the suggestion that she had committed homosexual acts. When she learned that Mr. Pat McChesney was the source of the complaint against her, she stated "he's a lunatic!" Upon learning that Ms. Jenson had confirmed the allegations, Maj Witt became more emotionally upset, turning tearful and red-faced. Expressing frustration, she rhetorically asked "why?" several times and inquired as to whether Ms. Jenson was upset with her for some reason. Maj Witt characterized Ms. Jenson as a "former roommate" and nothing more. During the explanation of her rights under and the processes set out in AFI 36-3209, Maj Witt was tearful and variously repeated "I didn't do anything wrong" and "I can't believe this" several times each. At the end of the 45 minutes we spent during the interview in the 446 AES conference room, Maj Witt asked permission to leave the building and not return to her duty station until later that afternoon, after she had a chance to recompose herself. I secured this permission on her behalf and allowed her to depart the area. 446 AES/CCF confirmed Maj Witt's return to duty later that same afternoon.
- 7. Findings, Analysis, and Conclusions. Based on a review of the original complaining e-mail and its attached supporting declarations as well as the personal interviews conducted in the course of this investigation, I make the following findings:
- 7a. Allegations Concerning Maj Witt's Homosexual Conduct with Tiffany Jenson. I find that it is a fact that Maj Witt and Ms. Jenson were engaged in a long-term romantic homosexual relationship. I further find that it is a fact that during the course of this committed relationship, Maj Witt engaged in homosexual acts with Ms. Jenson. In my opinion, any issue of credibility presented by Mr. McChesney's clear motivation to avenge the demise of his marriage is overcome by Ms. Jenson's independent confirmation of his allegations against Maj Witt. When I spoke to Ms. Jenson to arrange our interview, I offered her every opportunity to back out of the in-person appearance we were scheduling for later that week in Spokane. Not only did she appear at that scheduled meeting, she informed me that she had just given birth to her son a mere 10 days prior to our meeting. Although Ms. Jenson was not in agreement with the military's policy of prohibiting active homosexuals from serving their country, she was upset and disturbed by Maj Witt's adulterous behavior. Thus, she was supportive of Mr. McChesney's complaint against her ex-lover. Given no other hint of any alternative motivation to "turn in" Maj Witt for committing homosexual acts, I found Ms. Jenson wholly credible. Recognizing that her unwillingness to provide a written sworn statement could be problematic (for evidentiary concerns) at a future discharge board, I obtained her promise to review my written summary of our interview and make any necessary corrections. Ms. Jenson upheld that promise and recently reaffirmed what we had discussed many weeks earlier. In accordance with AFI 36-3209, para 2.30.1.1 and A11.5.1, these findings alone would be sufficient to justify a recommendation for discharging Maj Witt from the armed forces.
- 7b. Allegations Regarding Maj Witt's Homosexual Conduct with Laurie McChesney. I find that it is more likely than not that Maj Witt has engaged in a romantic homosexual relationship with Laurie McChesney, to include the commission of homosexual acts. While the evidence in this area is not nearly as clear as that relating to Maj Witt's prior relationship with Ms. Jenson,

the statements of both Ms. Jenson and Mr. McChesney point to a blossoming relationship between Maj Witt and Laurie McChesney in the latter portion of 2003. This relationship appears to be much more than a work-related friendship, and the declarations submitted with the original complaining e-mail support a conclusion that it is a homosexual relationship.

- 7c. Allegations Regarding Maj Witt's Comments about her Sexual Orientation. I find that it is NOT more likely than not that Maj Witt made comments that a reasonable person would find indicative of the her homosexuality. The portions of her Declaration apparently filed in support of Laurie McChesney in the divorce action (as included with Mr. McChesney's original e-mail) are not of the type contemplated by the definitions contained in AFI 36-3209, para A11.6.9. While one could "read between the lines" and conclude that Maj Witt and Laurie McChesney were lesbian lovers, no evidence was presented or uncovered during the course of this investigation that Maj Witt herself made any direct or open statements in that regard. Further, Mr. McChesney's observation that homosexual couples were present at various social events at homosexual. Therefore, this allegation should not be relied upon as a basis for discharging Maj Witt from her military service.
- 8. Recommendation. As noted in Title 10 of the United States Code, Section 654(a), and reiterated in AFI 36-3209, paragraph 1.15.15, "the presence in the armed forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability." Therefore, after full consideration of the mission detailed to me in my appointment letter, I make the following recommendation:

In accordance with my above-noted findings that it is a fact, or at the very least more likely than not, that Maj Witt is a homosexual who has already engaged in homosexual conduct, and has demonstrated a propensity to engage in homosexual acts, I recommend that 446/CC consult with 446 AW/JA and immediately initiate administrative discharge para 2.30.1.

Maj Witt chose not to submit a statement that might have altered the view of the evidence relied upon in reaching this *Recommendation*.

9. Discharge of Major Witt. The required procedures for discharging Maj Witt are fully explained in AFI 36-3209, specifically para 2.30 through 2.33 and para 4.12 through 4.18. As noted in subparagraph 4.12.2, all officers recommended for discharge for homosexual conduct are given an opportunity to have the case heard by an administrative discharge board. Thus, if you choose to follow my recommendation regarding discharge of Maj Witt, she will have the option of either accepting your discharge notification without a challenge or of demanding a board to review the evidence in this matter. In any case, under the pertinent portions of AFI 36-3209 (see Table 2.1, Rule 33, restricted by para A2.5.4.2), she will most probably receive an honorable discharge because there is no evidence that she committed any homosexual conduct that involved the use of force, threats, intimidation, or non-consensual partners. Despite her probable commission of adultery with Laurie McChesney, a violation under the UCMJ, it is my

understanding that it was never the intention of 446 AW/JA to pursue criminal prosecution of Maj Witt for any such offense. Even so, if Maj Witt's immediate commander reviews the evidence and determines that the adulterous behavior described therein is sufficiently aggravating, then a general discharge may be warranted (see AFI 36-3209, para A2.2.2). In this case, the characterization of Maj Witt's service could be used as a negotiating tool to avoid any insistence on her behalf of pursuing the matter to an administrative discharge board.

10. If necessary, I can schedule an appointment to meet with you at your office at any time you deem convenient. I will be able to answer any questions you might have about the conduct of this investigation, as well as its findings and recommendations. In the meantime, please contact me at my civilian office at (360) 753-6291 or via my cell phone at (253) 307-1862 if you have any immediate questions or further directions for me.

> ADAM E. TOREM, Maj, USAFR Assistant Staff Judge Advocate

Attachments:

- 1. Appointment Letters
- 2. E-mail Complaint and Attachments Patrick McChesney (14 Jun 04)
- 3. Sworn Witness Statement Patrick McChesney (19 Jul 04)
- 4a. Summarized Witness Interview Tiffany Jenson (14 Jun 04)
- 4b. E-mail Confirmation of Accurate Summary Tiffany Jenson (9 Sep 04)
- 5a. Fax from Attorney James Lobsenz (27 Jul 04)
- 5b. Fax Cover Sheet to Attorney James Lobsenz (8 Sep 04)
- 5c. Letter from Attorney James Lobsenz re: Military Defense Counsel (14 Sep 04)
- 5d. Letter from Attorney James Lobsenz re: Declining to Respond (14 Oct 04)

DEPARTMENT OF THE AIR FORCE

Headquarters 446 Airlift Wing (AFRC)
McChord Air Force Base, Washington 98438-1326

MEMORANDUM FOR MAJOR ADAM TOREM

7 July 2004

FROM: 446 AW/CC

SUBJECT: Homosexual Conduct Fact-Finding Inquiry

- 1. This letter appoints you to inquire into the allegation that a member of the 446 AW has engaged in homosexual conduct.
- 2. Report facts, opinions, and recommendations in letter form by 23 July 2004, unless an extension is granted. Ensure facts, opinions, and recommendations made are appropriately characterized. Refer to the Air Force's guidebook on Commander Directed Investigations (CDI) before beginning the investigation.
- 3. Consult with the Staff Judge Advocate prior to investigation.
- 4. By copy of this appointing order, members of 446 AW will provide the necessary assistance to help you in executing this tasking. Access to records germane to this investigating and clerical assistance will be provided.

ERIC W. CRABTREE, Colonel, USAFR Commander, 446 AW

Attachment:

4 AF/CC memorandum

07/07/2004 12:56

947656r.

CMDSECTION

PAGE 01/01



DEPARTMENT OF THE AIR FORCE AIR FORCE RESERVE COMMAND

July 7, 2004

MEMORANDUM FOR 446 AW/CC

FROM: 4 AF/CC

895 Baucom Ave SE

March ARB CA 92518-2266

SUBJECT: Homosexual Conduct Fact-Finding Inquiry

- 1. I have reviewed your request for authorization to proceed with a fact-finding inquiry of homosexual conduct by Major Margaret Witt, 446 AES.
- 2. I have also reviewed the evidence and find the information provided to me, considering its source and surrounding circumstances, supports a reasonable belief that there is a basis for conducting an investigation. Therefore, I authorize this fact-finding inquiry.

ROBERT E. DUIGNAN, Maj Gen, USAFR

Commander

----Original Message----

From: Pat McChesney [mailto:patmcchesney@att.net]

Sent: Monday, June 14, 2004 17:08

To: Jumper John Gen AF/CC Subject: Major Margaret Witt

General John Jumper:

On 1 December 2003 my wife, Laurie McChesney, informed me she was leaving me for Major Margaret Witt, USAF Reserve. Laurie and I had been married for nearly 22 years and had three children, ages 13, 19

My wife's relationship changed dramatically on 31 October 2003 when Major Witt's then six year lesbian partner, Tiffany Jenson, informed Major Witt that she was pregnant. Tiffany and Major Witt had for some time planned to have Tiffany artificially inseminated. My wife and I were attending a family Halloween party that night. Major Witt called and asked my wife to leave the party. My wife told me her friend Major Witt was despondent, hysterical and suicidal due to the devastating

Laurie admitted to me and several others in sworn declarations filed in the subsequent divorce proceedings that her friendship with Major Witt became romantic in November 2003. She and Major Witt spent the night together on 31 October 2003, 3 November 2003, 6 November 2003, 8 November 2003 and 31 December 2003 that I am aware of.

I initiated divorce proceedings in an effort to have my wife removed from my home where I was living with my 13 year-old son, S where my wife continued her adulterous love affair with Major Witt by phone from the home. Laurie told me on several occasions she was going to move in with Major Witt once the divorce was final.

In Laurie's response to the divorce filing, a sworn declaration was submitted by Major Witt on her behalf. In her Declaration Major Witt attempts to paint me as a danger to my son S based on my reaction to 1) the devastating news of 1 December 2003 that my wife was a lesbian in love with Major Witt and going to leave me and 2) my reaction two days later on 3 December 2003 when my wife left my home to "get some space" and specifically told me she was NOT going to Major Witt's house. She in face did go to Major Witt's house, picked her up and the two of them went to another lesbian couples house to spend the night. My wife has specifically told me on her way out of the house she was NOT going to Major Witt's house and told me to call her cell phone if I didn't believe her. Prior to the traumatic news on 1 December, my wife had repeatedly denied to me that her relationship with Major Witt more than just professional. Major Witt and my wife work together daily for

Major Witt never states in her sworn declaration that her adulterous love affair with my wife and the betrayal of our friendship was the cause of my extreme emotional trauma, the break up of my twenty-two

Major Witt also spends considerable time in her declaration portraying

herself as the benevolent safe harbor for my son S while portraying me as the dangerous unstable unpredictable ill-tempered father.

In my opinion, Major Witt's adulterous love affair with my wife and the sworn Declaration she filed which clearly contains half-truths, lies and self-serving statements attempting to separate me from my son is amoral and perjurious. I believe she is a potential predator to other heterosexual women in the armed services and her behavior and extreme measures to get what she wants.

It was only after serious consideration over the last few months that I decided to report the conduct of Major Witt to the Air Force. All of those who have been or are currently on active or reserve duty in the armed forces who know of my circumstances encouraged me to report her conduct. I did not consult with my Godfather, Admiral Jackson D Arnold, USN, Ret. due to his age and the recent death of his wife Muriel.

I am willing to provide additional information if the Air Force decides this warrants further investigation. Tiffany Jenson is also willing to provide further information regarding Major Witt including information regarding an affair Major Witt had with a female teacher while attending junior high school.

I believe Major Witt operates out of McChord Air Force base in Tacoma

List of attachments (all declarations filed with Spokane Superior Court under penalty of perjury):

- 1) Declaration of Major Witt dated January 14, 2004 (Maj_Witt_Declaration.pdf). See paragraph for Major Witt's description 2) Declaration of Major Witt's description
- 2) Declaration of Melinda McChesney (Melinda Declaration.pdf). See page 5 line 7 for the beginning of my wife's description of her 3) Declaration of Worth with Major Witt.
- 3) Declaration of Heather McGuinness (Heather_Declaration.pdf). See
 4) Declaration of Declaration of Declaration.
- 4) Declaration of Bridgette Halverson (Halverson_Declaration.pdf). See paragraph 2 through 7.

Torem Adam Maj 62 AW/JA

From: Torem Adam Maj 62 AW/JA

Sent: Wednesday, September 08, 2004 4:18 PM

To: 'tjenson@advantagept.net'; 'aptherapy2@qwest.net'

Subject: Air Force Investigation

TO: Tiffany Jenson

RE: Investigation of Maj Margaret Witt

As you will recall, we met on the afternoon of Wednesday, July 14, 2004. You were willing to speak to me about Margaret Witt, but you were not willing to reduce your sworn verbal comments to a formal written statement. In have summarized our discussion and ask that you review the following paragraphs for accuracy. If I mistakes. If you agree that this e-mail contains an accurate summary of your sworn verbal comments to me, please reply to me and indicate as much. In order to ensure greater timeliness, please send your reply to my home e-mail address: adamtorem@writeme.com.

Thanks you very much for your continued cooperation with this investigation. I appreciate your understanding of the reasons for my delay in completing this phase of the investigation.

Major Adam E. Torem USAF Reserve

------ Summary of Interview with Tiffany Jenson - - - Weds, Sept 14, 2004 - -----

My name is Tiffany Jenson. I am 34 years old. I reside in Spokane, Washington. I swear that all of the information I am providing to Major Adam E. Torem in this interview is true and accurate.

I met Margaret Witt in 1996 while attending the physical therapy school at Eastern Washington University. We were both enrolled in a master's degree program. There were about 30 people in our class; our group graduated in December 1998.

At first, Margaret and I were just classmates, but we became romantically involved in a lesbian relationship in July 1997. This was not the first homosexual relationship for me or for Margaret Witt. At the time we became involved, Margaret was just ending another homosexual relationship. Margaret was my second lesbian lover. We engaged in a committed and loving relationship from July 1997 through October 2003. Our relationship included sexual relations and intercourse. For the majority of our relationship, we lived in a home that we owned together in Spokane; the house was titled in Margaret's name, but I owned a portion of the residence. Throughout the course of our six year relationship, Margaret was always fearful of the Air Force discovering our relationship.

My relationship with Margaret came to an end on October 31, 2003, due to my desire to have a family and Margaret's decision not to participate with me in this endeavor. We had previously been in agreement about this and had even identified a friend of her to act as a sperm donor, the intent being for me to undergo artificial insemination and then carry our child. Margaret's friend actually provided his sperm sample to a facility sometime in 2002. In addition, Margaret obtained the necessary blood and communicable disease testing to allow us to go forward with this plan. However, following a visit from Margaret's parents in the summer of 2002, Margaret learned that her family would not support her. She decided that she didn't want to be a parent. Margaret asked that we delay following through on our plan to have a family. I agreed, and Margaret and I attended some counseling sessions together over the course of the next year in an attempt to work things out.

In summer 2003, I decided that I still wanted to be a parent, with or without Margaret. Therefore, in mid-August 2003, I made arrangements to go forward with my plan to have a family. I did not use the sperm sample donated by Margaret's friend, but identified an alternate donor. In mid-October 2003, while Margaret was away performing military duties, I was inseminated. Fortunately, this resulted in my pregnancy and I gave birth to my son, Tell, on

Page 2 of 2

When Margaret and I realized that we would not be able to resolve our differences regarding the desire to have a family, we decided that Margaret would buy me out of my portion of the Spokane home. We had not yet finalized this buy-out on October 31, 2003, when I first informed Margaret of my insemination and positive pregnancy test. In fact, we only worked out the financial details of the buy-out in early 2004.

During my relationship with Margaret, I would accompany her over to the Seattle area when she had weekend military duty at McChord Air Force Base. We would stay at her parents' home in Gig Harbor, Washington. Gloria and Frank Witt are retired school teachers and Margaret had grown up in that area, attending and graduating from Curtis High School in University Place, Washington. In my opinion, Margaret knew she was a lesbian well before she accepted a commission in the U.S. Air Force. I think she may have know when she was still in high school.

In late 2003, it came to my attention that Margaret was spending a lot more time with one of her colleagues from work: Laurie McChesney. They both worked for the Spokane School District, Margaret as a physical therapist and Laurie as her aide. They had developed a close friendship over at least a year, but in Fall 2003 they began to spend a lot more time together. Outside of work, they attended a yoga class together at least one evening per week and then went out together afterwards, to bars or to coffee shops or similar places. My relationship with provided some emotional support for Margaret and it later became more than that, turning into a romantic relationship.

On October 31, 2003, I talked with Margaret about Laurie McChesney. At that time, I told her I thought she was spending a lot of time with Laurie. We spoke about it again in early 2004, when we were finalizing the buy-out of the home. Based on the McChesney's pending divorce, I had concluded that Margaret and Laurie had become engaged in a lesbian relationship. When I told this to Margaret, she did not deny it or otherwise protest. I even told Margaret that I thought her decision to engage in the affair with Laurie was devastating to the McChesney marriage and their household, and Margaret did not refute what I was saying to her whatsoever.

Obviously, I do not have any objection to Margaret's homosexual orientation or to her homosexual conduct. I am concerned that Margaret engaged in adultery with another man's wife and contributed to the destruction of a 20+ focus on her adulterous behavior, not her existence as a lesbian. However, I have been advised of the military's with me and with Laurie McChesney can and probably will be used to terminate her years of service.

Tiffany Jenson

Page 1 of 1

Torem Adam Maj 62 AW/JA

Adam & Cheryl Torem [ctorem@earthlink.net] From:

Thursday, September 09, 2004 5:20 PM Sent:

Torem, Adam -- Work; Torem Adam Maj 62 AW/JA To:

Subject: Fw: investigation

Print for Investigation File -- Attach as Exhibit

---- Original Message -----From: Tiffany Jenson

To: adamtorem@writeme.com
Sent: Thursday, September 09, 2004 1:22 PM

Subject: investigation

Adam:

I reviewed my statement on the email and it is accurate. The only change is that Margie and I co-owned our home legally.

I am sorry to hear about your sister.

Good luck with everything. Let me know if you need anything else from me. Tiffany

MAY-16-2005 08:05

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STATEMENT OF TIFFANY JENSON

My name is Tiffany Jenson. I am 34 years old. I reside in Spokane, Washington.

I met Margaret Witt in 1996 while attending the physical therapy school at Eastern Washington University. We were both enrolled in a master's degree program. There were about 30 people in our class; our group graduated in December 1998.

At first, Margaret and I were just classmates, but we became romantically involved in a lesbian relationship in July 1997. This was not the first homosexual relationship for me or for Margaret Witt. At the time we became involved, Margaret was just ending another homosexual relationship. Margaret was my second lesbian lover. We engaged in a committed and loving relationship from July 1997 through October 2003. Our relationship included sexual relations and intercourse. For the majority of our relationship, we lived in a home that we co-owned together in Spokane. Throughout the course of our six year relationship, Margaret was always fearful of the Air Force discovering our relationship.

My relationship with Margaret came to an end on October 31, 2003, due to my desire to have a family and Margaret's decision not to participate with me in this endeavor. We had previously been in agreement about this and had even identified a friend of her to act as a sperm donor, the intent being for me to undergo artificial insemination and then carry our child. Margaret's friend actually provided his sperm sample to a facility sometime in 2002. In addition, Margaret obtained the necessary blood and communicable disease testing to allow us to go forward with this plan. However, following a visit from Margaret's parents in the summer of 2002, Margaret learned that her family would not support her. She decided that she didn't want to be a parent. Margaret asked that we delay following through on our plan to have a family. I agreed, and Margaret and I attended some counseling sessions together over the course of the next year in an attempt to work things out.

In summer 2003, I decided that I still wanted to be a parent, with or without Margaret, Therefore, in mid-August 2003, I made arrangements to go forward with my plan to have a family. I did not use the sperm sample donated by Margaret's friend, but identified an alternate donor. In mid-October 2003, while Margaret was away performing military duties, I was inseminated. Fortunately, this resulted in my pregnancy and I gave birth to my son, To on

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During my relationship with Margaret, I would accompany her over to the Scattle area when she had weekend military duty at McChord Air Force Base. We would stay at her parents' home in Gig Harbor, Washington. Gloria and Frank Witt are retired school teachers and Margaret had grown up in that area, attending and graduating from Curtis High School in University Place,



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Washington. In my opinion, Margaret knew she was a lesbian well before she accepted a commission in the U.S. Air Force. I think she may have known when she was still in high

In late 2003, it came to my attention that Margaret was spending a lot more time with one of her colleagues from work: Laurie McChesney. They both worked for the Spokane School District, Margaret as a physical therapist and Laurie as her aide. They had developed a close friendship over at least a year, but in Fall 2003 they began to spend a lot more time together. Outside of work, they attended a yoga class together at least one evening per week and then went out together afterwards, to bars or to coffee shops or similar places. My relationship with Margaret was definitely on its way to ending and Margaret was having a hard time with that. Laurie apparently provided some emotional support for Margaret and it later became more than that, turning into a romantic relationship.

On October 31, 2003, I talked with Margaret about Laurie McChesney. At that time, I told her I thought she was spending a lot of time with Laurie. We spoke about it again in early 2004, when we were finalizing the buy-out of the home. Based on the McChesney's pending divorce, I had concluded that Margaret and Laurie had become engaged in a lesbian relationship. When I told this to Margaret, she did not deny it or otherwise protest. I even told Margaret that I thought her decision to engage in the affair with Laurie was devastating to the McChesney marriage and their household, and Margaret did not refute what I was saying to her whatsoever.

Obviously, I do not have any objection to Margaret's homosexual orientation or to her homosexual conduct. I am concerned that Margaret engaged in adultery with another man's wife and contributed to the destruction of a 20+ year marital relationship. If the military wants to do anything to discipline Margaret, I believe that they should focus on her adulterous behavior, not her existence as a lesbian. However, I have been advised of the military's policy on homosexual conduct and I realize that my statements regarding Margaret's homosexual relationships with me and with Laurie McChesney can and probably will be used to terminate her years of service.

I swear that all the information above in this statement of Tiffany Jenson is true.

STATE OF WASHINGTON, COUNTY OF

Subscribed and sworn to by Tiffany Jenson before me, a person authorized to administer oaths as a Notary Public, in the County of and State of Washington, as witness my hand and official seal, on 2005.

Notary Public

My commission expires on

Notary Public State of Washington BARBARA J JOHNSON My Appointment Expires May 5, 2006

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IV. STATEMENT	
On January 14, 1982, I married Laurie A - M. C.	ey in San Diego, CA. We have three children by this marriage - A
M D D Market Latine Ann McChesne	ey in San Diego, CA. We have three children by this marriage.
a daughter, Melinda Marie McChospoy (a	ages 21, 19 and 13 respectively. The
relationship. I was blindsided by what was about to oc	A ages 21, 19 and 13 respectively. The cour beginning in November 2003
	58 m 140 verifiber 2003.
On December 1, 2003 my wife informed	
Spokane County Washington, This is	eaving me for Margaret Witt. On January 5, 2004, I filed for divorce in ress" for lack of better term and is scheduled for a court hearing on
November 15, 2004	ress" for lack of better term and is scheduled for a real of divorce in
	on a court hearing on
My wife met Margarot With the	
physical therapist (PT) and the December 2000 when La	turie started working for Spokane Public Schools District 81. Witt is a
Iold me Margaret was a large is a PT assistant. I m	urie started working for Spokane Public Schools District 81. Witt is a et Margaret sometime in the first year of Laurie's employment. Laurie her women, Tiffany Jenson, her partners f
told the Walgalet was a lesbian and was living with anot	her women. Tiffany Jerson has aged of Laurie's employment. Laurie
total, since 1997.	et Margaret sometime in the first year of Laurie's employment. Laurie her women, Tiffany Jenson, her partner for approximately six years
,	
and the and Margarel were close friends and eventually m	y family (Laurie, S & I) would go to Margaret and Tiffany's house
and they would come to our house for social events, usua	y family (Laurie, S & I) would go to Margaret and Tiffany's house lly connected with Margaret and Laurie's employment with Spokane d her with technical questions related to
1 Tubic Octionis, i Considered Margaret C.	The Balet ally Lairie's employment and C
T THE HOUSE IN PARTY NOVEMBER 2000	desirons (cidentifications)
1 0 m and out of office stip had kneed conserved by	master bedroom to make it easing for M
regular basis to watch The West Wing episodes on Wedne	anged the bed in her master bedroom to make it easier for Margaret to 4, 2003. My family would go to Margaret and Tiffany's house on a esday nights.
1	
In the fall of 2003, Laurie and Margaret started to spend of	nore time together. On October 31, Laurie and I were attending a
Halloween party when Margaret called Laurie and told ber	that Tiffany had gone ahead with a family plan they had worked on Laurie told me Margaret was beside beauty.
1 'O' O'C' O'YEDI AHU WAS DEGORARI	J - Bone discar will a family of a 1
O TO THE DOLL INC. NO.	Servines desire liercell later I
of absence from Spokane Public Schools from Neverthe	Laurie told me Margaret was beside herself. Later, I was told uled to have knee surgery on November 4, 2003. She was on a leave
Margaret kicked her pregnant parter. Ties	
assisting Margaret in her post-surgery care. I assist	veral nights at Margie's house in November and December 2003.
frame is documented in my Reply Dockson	ed their relationship was anything but professional until I confronted information and a chronology of the November – December time
frame is documented in my Reply Declaration dated January	16, 2004 and filed in my divorce action
V. OATH/SIGNATURE	· ·
"I hereby voluntarily and of my own free will make this statement without inducement. I swear (or affirm)! have read this statement, initialed all pages SIGNATURE OF RESERVE	
(or aftirm) I have read this statement, initialed all pag	having been subjected to any coercion, unlawful influence, or unlawful ses and corrections, and it is true and correct to the best of my knowledge."
SIGNATURE OF PERSON MAKING STATEMENT	best of my knowledge."
1 1307	SIGNATURE OF WITNESS/INTERVIEWER
1000 1	
Subscribed and sworp to bet	
Subscribed and sworn to before me, a person authorized by law to adminis	ter oaths, this fg May
ACL' (year).	
SIGNATURE OF PERSON ADMINISTERING OATH	
	42.4
VI. INSTRUCTIONS FOR CONTINUATION PAGE(S)	ADAM E. TEREM, MAJ, CENTY
Use plain bond paper (both sides optional). At the top right of each page, print or each page, print or type: "Page of Pages." The individual must initial th	Noe "I art age of the second s
each page, print or type: "Page of Pages." The individual must initial th AF IMT 1168, 19980401, V2 (REVERSE)	e top and bottom entries and sign his/her page 1.
AF IMT 1168, 19980401, V2 (REVERSE)	matter traine at the bottom of each page.

(REVERSE)

McChesney on 20040719

When I asked Lauric if she had consummated her lesbian relationship with Margaret in early December, Lauric said she had not. Laurie had told others she had but never admitted it to me. The first family member Lauric told about her romantic relationship with Margaret was my daughter Melinda the day she arrived from Birmingham AL on December 22, 2003 for the Christmas holidays. In a Declaration dated January 15, 2004 prepared by Laurie's cousin, Heather McGuinness, Laurie told Heather she was romantically involved with Margaret beginning in November 2003. In a conversation with Heather in February or March of 2004, Heather told me she had asked Laurie "How is the sex (with Margaret)?" Laurie replied, "Pretty good."

Laurie continued to carry on her relationship with Margaret through the holidays and into January. When Laurie told me she expected me to continue to live in my house in the guest room with my 13 year old son Samin his room and Laurie talking to Margaret on her cell phone from the master bedroom and continuing their romantic involvement at Margie's home located in Spokane until the divorce was final in 8 to 10 months, I decided it was

Laurie told all of the family members and me several times throughout December that she intended to move in with Margaret as soon as the divorce was final and all she needed was a set of bedroom furniture for the second bedroom

On January 7, 2004 Laurie was served the divorce papers. Laurie responded to this filing with several declarations, including one filed by Margaret on January 14, 2004. In this Declaration, Margaret attempts to paint me as a person who is unstable, ill tempered and violent. Margaret indicated that I would "blow-up" for reasons unknown. What Margaret never indicated in her Declaration is that the reason for my anger and the divorce was her extramarital lesbian affair with my wife. See her Declaration dated January 14, 2004. In this Declaration, she clearly is attempting to portray me as a danger to my son Sam and paint herself as the benevolent friend who can provide a safe haven for S Never does she tell the whole truth, that it is her relationship with my wife that is the cause for

Lauric and Margaret have spent the following nights that I am aware of together:

- 3 November 2003
- 6 November 2003
- 8 November 2003
- 31 December 2003

I believe Margaret is now living in my house with my 13-year-old son S 99223. I no longer am allowed to drive down my own driveway without permission from my wife as a result of an appeal hearing on February 5, 2004. On January 19, 2004 a court commissioner kicked Laurie out of the litouse. Her and her attorney appealed this ruling and on February 5, 2004 a judge reversed the commissioners ruling and kicked me out of my house. As a result, Margaret's access to my house is now unfettered.

Since my access to my house is restricted, I do not know for certain if Margaret is living there. I drive by Margaret's house located at 1022 W 19th Ave here is Spokane on my way to swim workout at 6 AM. Margaret's

On May 11-12, daughter A spent a couple of nights at Dyer Road with her mother and S I asked her if Margaret was living at the house. She told me she tried not to notice. She did tell that in addition to Laurie's notation on a calendar on the master bathroom wall indicating when Laurie started her menstrual cycle with the acronym "LSP" (Laurie Starts Period) there was also "MSP" on the calendar which may mean "Margie Starts

I know of at least three trips the two of them have taken together. On March 27-28 weekend, Lauffe's nephew was married in Carlsbad CA. Laurie and Margaret took this trip together leaving March 25th and returning March 28th 2004. They also took a trip to Florida together from May 14th through May 25th 2004. There was also a weekend trip they took together in March to the Seattle area, perhaps when Margaret was doing her Air Force Reserve

Page 3 of 4



McChesney on 20040719

It was only after serious consideration over the last few months that I decided to report the conduct of Margaret Witt to the Air Force. All of those who have been or are currently on active or reserve duty in the armed forces that know of my circumstances encouraged me to report her conduct. I decided to report Margaret's conduct to the Air Force because of her adulterous affair with my wife, the betrayal of friendship and the devastation to my marriage and sexual orientation was not an issue in my decision to report her conduct. I would have done the same thing if a male dishonorable to the Air Force and unbecoming of an officer.

i Af

CARNEY BADLEY SPELLMAN

James E. Lobsenz

LAW OFFICES A PROFESSIONAL SERVICE CORPORATION

700 FIFTH AVENUE, 8UITE 5800 SEATTLE, WA 98104-5017 FAX (206) 467-8215 TEL (208) 622-8020 DIRECT LINE (208) 607-4206

Email: lobsenz@camcylaw.com

July 27, 2004

Major Adam Torem JAG – 62nd Airway Ft. McChord

Re: Investigation of Major Witt

RECEIVED

JUL **2** 7 2004 OAH - Olympia

SENT IMMEDIATELY BY FAX TO 360-586-6563

Dear Major Torem:

I am writing in response to your phone message which I just received. I have been retained by Major Witt to advise her with respect to your investigation into her conduct. I understand that Major Witt is also entitled to have military defense counsel appointed to advise her as well. On her behalf I am requesting that military counsel be appointed for her. I would like to work with someone with has more familiarity with military law than I do. Although I did once represent an Army soldier in an administrative discharge proceeding, that was over 20 years ago and I have not done one since. It is my understanding that Captain Adrian Ingram will be arriving at Ft. McChord sometime in late August, and will be taking over the area defense duty at that time. However, I would like to have someone appointed to advise Major Witt before that time, if that is at all possible. Please consider this a formal request for such an appointment.

I am requesting that you provide me with information regarding your investigation, the evidence you have gathered, and the nature of the allegations which are under investigation. I can be reached at the address listed above. The quickest way to reach me is by e-mail at Lobsenz@carneylaw.com.

Thank you for your assistance.

Sincerely,

ames E. Lobsenz

CARNEY BADLEY SPELLMAN, P.S.

cc: Client

WIT corr fg274202

SEP-14-2004 16:44

CARNEY BADLEY

P.02

CARNEY BADLEY SPELLMAN

James E Lobsenz

LAW DFFICES A PROFESSIONAL SERVICE CORPORATION

700 FIFTH AVENUE, SUITE 6800 SEATTLE, WA 98104-5017 FAX (208) 467-8215 TEL (208) 622-8020 DIRECT LINE (208) 807-4205

Email: lobscnz@cameylaw.com

September 14, 2004

Major Adam Torem JAG – 62nd Airway 525 A Street, Suite 21 McChord AFB, WA 98438-1324

Re: Investigation of Major Witt

SENT IMMEDIATELY BY FAX TO OFFICE OF THE STAFF JUDGE ADVOCATE, 62 AIRLIFT WING (AMC) AT 253-982-5905

Dear Major Torem:

As you will recall, I first relayed Major Witt's request for the appointment of military counsel on July 27th. I mentioned to you yesterday that I still have not been able to learn whether Captain Ingram, or anyone else from Area Defense Counsel, had been appointed to serve as co-counsel with me in the representation of Major Witt. Acting on your suggestion, yesterday I left she told me that Captain Ingram was married on Saturday and is now on a short honeymoon. That may explain why no one is answering the phone at the Area Defense Counsel office at McChord.

Captain Jacobsen suggested that the delay may have been caused by the fact that Major Witt is Air Force Reserve. She said that she thought it could be that the appointment of defense counsel for a reservist has to be made by the command in Atlanta, Georgia. Captain Jacobsen suggested I call Lt. Col Mark Allison, Chief Circuit Defense Counsel, at 707-424-1519.

I called Colonel Allison and left him a message stating that I was hoping to be informed that someone had been appointed. He called back today and as soon as I told him that this was an investigation regarding an administrative discharge, he confirmed that the appointment of defense counsel will have to be made by the Air force Reserve Command Defense Services in Atlanta. He said he would contact them and urge them to appoint someone quickly. He said he could not appoint Captain Ingram or anyone local.

So the bottom line is I do not yet have any military co-counsel to confer with. I need to confer with co-counsel first before I can decide how best to respond to your inquiry. Therefore, I will not be able to respond to your inquiry by today, as you had hoped. I trust you will delay the completion of your report until I can decide how Major Witt wishes to respond to your inquiry. I

SEP-14-2004 16:44

CARNEY BADLEY

P.03

Major Adam Torem September 14, 2004 Page 2

will keep trying to push the appointment of military counsel and I will keep you apprised of the progress of that endeavor. Hopefully, I will be able to give you answer sometime next week.

Thank you for your assistance.

Sincerely,

James E. Lobsenz

CARNEY BADLEY SPELLMAN, P.S.

AF000693

CARNEY BADLEY SPELLMAN

James E. Lobsenz

RCVD. OCT 15 2004

A PROFESSIONAL SERVICE CORPORATION

700 FIFTH AVENUE, SUITE 5800 SEATTLE, WA 98104-5017 FAX (206) 467-8215 TEL (206) 622-8020 DIRECT LINE (206) 607-4205

Email: lobsenz@cameylaw.com

October 14, 2004

Major Adam Torem JAG – 62nd Airway 525 A Street, Suite 21 McChord AFB, WA 98438-1324

Re: Investigation of Major Witt

SENT IMMEDIATELY BY FAX TO OFFICE OF THE STAFF JUDGE ADVOCATE, 62 AIRLIFT WING (AMC) AT 253-982-5905

Dear Major Torem:

I have now had a chance to confer with military co-counsel, Captain Renee Voltz. After getting the benefit of her advice, and mine, Major Witt has decided not to make any formal response to your report, or to offer any information at this time.

However, I do appreciate your having given us the opportunity to make a statement. I understand that you will now send your final report on to Colonel Crabtree.

Sincerely,

CARNEY BADLEY SPELLMAN, P.S.

James E. Lobsenz

DECLARATION OF MAJ ADAM E. TOREM

I am Adam Erik Torem. I am an Individual Mobility Augmentee (IMA) assigned to 9005 ARS in Denver, Colorado, and attached to the 62d Airlift Wing, McChord AFB, Washington. In late June 2004, I was asked to conduct an investigation into whether or not Major Margaret Witt, a member of the 446 AES at McChord AFB had committed homosexual conduct.

On Wednesday, July 14, 2004, I traveled to Spokane, Washington, and interviewed Tiffany Jenson. Ms. Jenson is a 34 year old woman who had just given birth to a baby boy ten days earlier. I had been told that Ms. Jenson was Maj Witt's lesbian partner for the past several years; Ms. Jenson confirmed this fact and provided additional information about their relationship, as follows:

Ms. Jenson and Maj Witt met in 1996 while attending the physical therapy school at Eastern Washington University. They were both enrolled in a master's degree program and graduated in December 1998. Although at first they were just classmates, they became romantically involved in a lesbian relationship in July 1997. This was not the first homosexual relationship for Ms. Jenson or for Maj Witt and they engaged in a committed and loving relationship from July 1997 through October 2003. They lived together in a home in Spokane Their relationship included sexual relations and intercourse.

Ms. Jenson's relationship with Maj Witt came to an end on October 31, 2003, due to Ms. Jenson's desire to have a family and Maj Witt's decision not to do so despite a previous agreement with Ms. Jenson. Apparently, a visit from Maj Witt's parents in Summer 2002 changed her mind. A full year of attending counseling could not bring Ms. Jenson and Maj Witt back into agreement.

Therefore, in summer 2003, Ms. Jenson decided that she still wanted to be a parent, with or without Maj Witt. In mid-August 2003, she made arrangements to obtain a sperm sample and was inseminated in mid-October 2003. Ms. Jenson conceived and bore her child on July 4, 2004.

When Maj Witt and Ms. Jenson realized that they would not be able to resolve their differences regarding the desire to have a family, Maj Witt bought out Ms. Jenson's portion of their Spokane home. Ms. Jenson eventually moved out to a new residence.

During Ms. Jenson's relationship with Maj Witt, they would travel together to the Seattle area when Maj Witt had weekend military duty at McChord Air Force Base. They would stay at Maj Witt's parents' home in Gig Harbor, Washington. Ms. Jenson believes that Maj Witt knew herself to be a lesbian well before she accepted her commission in the U.S. Air Force, perhaps as early as in high school.

In late 2003, it came to Ms. Jenson's attention that Maj Witt was spending a lot more time with Laurie McChesney, one of Maj Witt's colleagues from work with the Spokane School District. Ms. Jenson had noticed that Maj Witt and Ms. McChesney

were attending yoga classes together, going out to bars, and generally spending evenings together. Although Ms. Jenson believed that the two friends were just giving each other emotional support during a tough time, she later learned that the two were developing a romantic relationship. On October 31, 2003, Ms. Jenson talked with Maj Witt about Laurie McChesney and the amount of time they were spending together, but Ms. Jenson did not confront her in any way. Later, in February 2004, Ms. Jenson voiced her opinion that Maj Witt and Ms. McChesney were engaging in a lesbian relationship and Maj Witt did not deny it or otherwise protest. Ms. Jenson expressed her opinion that engaging in an affair that destroyed the McChesney marriage was wrong.

I took copious notes during our interview and later reduced them to a written summary. I found Ms. Jenson to be fully credible in her description of her previous lesbian relationship with Maj Witt. In my mind, it only increased her credibility that she would meet me to discuss the matter only 10 days after having her child and, nearly 2 months later, re-confirm everything that she had told me face-to-face in Spokane.

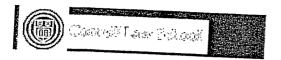
As Ms. Jenson did not wish to sign a statement against her former lover, on September 8, 2004, I sent her an electronic mail message with the summarized statement and asked her to confirm its accuracy [see Attachment A]. One day later, on September 9, 2004, Ms. Jenson replied to the email and made only one minor correction (regarding the home they owned in Spokane) [see Attachment B]. I included both of these items of electronic correspondence in my Report.

I declare under penalty of perjury that the foregoing is a true and accurate declaration describing my investigation in this matter. Executed this 10th day of November, 2004.

Adam E. Torem, Major, USAF Reserve

US CODE: Title 10,654. Policy concerning homosexuality in the armed forces

Page 1 of 3



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U.S. Code collection

TITLE 10 > Subtitle A > PART II > CHAPTER 37 > § 654 § 654. Policy concerning homosexuality in the armed forces

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How Current is This?

- (a) Findings.— Congress makes the following findings:
 - (1) Section 8 of article I of the Constitution of the United States commits exclusively to the Congress the powers to raise and support armies, provide and maintain a Navy, and make rules for the government and regulation of the land and naval forces.
 - (2) There is no constitutional right to serve in the armed forces.
 - (3) Pursuant to the powers conferred by section 8 of article I of the Constitution of the United States, it lies within the discretion of the Congress to establish qualifications for and conditions of service in the armed forces.
 - (4) The primary purpose of the armed forces is to prepare for and to prevail in combat should the need arise.
 - **(5)** The conduct of military operations requires members of the armed forces to make extraordinary sacrifices, including the ultimate sacrifice, in order to provide for the common defense.
 - (6) Success in combat requires military units that are characterized by high morale, good order and discipline, and unit cohesion.
 - (7) One of the most critical elements in combat capability is unit cohesion, that is, the bonds of trust among individual service members that make the combat effectiveness of a military unit greater than the sum of the combat effectiveness of the individual unit members.
 - (8) Military life is fundamentally different from civilian life in that—
 - (A) the extraordinary responsibilities of the armed forces, the unique conditions of military service, and the critical role of unit cohesion, require that the military community, while subject to civilian control, exist as a specialized society; and
 - **(B)** the military society is characterized by its own laws, rules, customs, and traditions, including numerous restrictions on personal behavior, that would not be acceptable in civilian society.
- (9) The standards of conduct for members of the armed forces regulate a member's life for 24 hours each day beginning at the moment the member enters military status and not ending until that person is discharged or otherwise separated from the armed forces.
- (10) Those standards of conduct, including the Uniform Code of Military Justice, apply to a member of the armed forces at all times that the member has a military status, whether the member is on base or off base, and whether the member is on duty or off duty.
- (11) The pervasive application of the standards of conduct is necessary

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because members of the armed forces must be ready at all times for worldwide deployment to a combat environment.

- (12) The worldwide deployment of United States military forces, the international responsibilities of the United States, and the potential for involvement of the armed forces in actual combat routinely make it necessary for members of the armed forces involuntarily to accept living conditions and working conditions that are often spartan, primitive, and characterized by forced intimacy with little or no privacy.
- (13) The prohibition against homosexual conduct is a longstanding element of military law that continues to be necessary in the unique circumstances of military service.
- (14) The armed forces must maintain personnel policies that exclude persons whose presence in the armed forces would create an unacceptable risk to the armed forces' high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.
- (15) The presence in the armed forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.
- **(b) Policy.** A member of the armed forces shall be separated from the armed forces under regulations prescribed by the Secretary of Defense if one or more of the following findings is made and approved in accordance with procedures set forth in such regulations:
 - (1) That the member has engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts unless there are further findings, made and approved in accordance with procedures set forth in such regulations, that the member has demonstrated that—
 - (A) such conduct is a departure from the member's usual and customary behavior;
 - (B) such conduct, under all the circumstances, is unlikely to recur;
 - **(C)** such conduct was not accomplished by use of force, coercion, or intimidation;
 - **(D)** under the particular circumstances of the case, the member's continued presence in the armed forces is consistent with the interests of the armed forces in proper discipline, good order, and morale; and
 - **(E)** the member does not have a propensity or intent to engage in homosexual acts.
 - (2) That the member has stated that he or she is a homosexual or bisexual, or words to that effect, unless there is a further finding, made and approved in accordance with procedures set forth in the regulations, that the member has demonstrated that he or she is not a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts.
 - (3) That the member has married or attempted to marry a person known to be of the same biological sex.

(c) Entry Standards and Documents.—

(1) The Secretary of Defense shall ensure that the standards for enlistment and appointment of members of the armed forces reflect the policies set forth

US CODE: Title 10,654. Policy concerning homosexuality in the armed forces

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in subsection (b).

- (2) The documents used to effectuate the enlistment or appointment of a person as a member of the armed forces shall set forth the provisions of subsection (b).
- (d) Required Briefings.— The briefings that members of the armed forces receive upon entry into the armed forces and periodically thereafter under section 937 of this title (article 137 of the Uniform Code of Military Justice) shall include a detailed explanation of the applicable laws and regulations governing sexual conduct by members of the armed forces, including the policies prescribed under subsection (b).
- **(e) Rule of Construction.** Nothing in subsection (b) shall be construed to require that a member of the armed forces be processed for separation from the armed forces when a determination is made in accordance with regulations prescribed by the Secretary of Defense that—
 - (1) the member engaged in conduct or made statements for the purpose of avoiding or terminating military service; and
 - (2) separation of the member would not be in the best interest of the armed forces.

(f) Definitions.— In this section:

- (1) The term "homosexual" means a person, regardless of sex, who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts, and includes the terms "gay" and "lesbian".
- (2) The term "bisexual" means a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual and heterosexual acts.
- (3) The term "homosexual act" means—
 - (A) any bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires; and
 - **(B)** any bodily contact which a reasonable person would understand to demonstrate a propensity or intent to engage in an act described in subparagraph (A).

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News Director: Maureen Shawn Kennedy, MA, RN E-mail: shawn.kennedy@wolterskluwer.com

'Don't Ask, Don't Tell' Leads to Nurse's Discharge

Decorated lesbian RN sues the U.S. Air Force.

ajor Margaret Witt wants her job back. Once photographed for a nurse-recruitment advertisement, she was a flight nurse and operating room nurse in the U.S. Air Force for 19 years, including a tour of duty in the Persian Gulf. In 2003, after saving the life of a Department of Defense employee who collapsed aboard a flight in Bahrain, Witt was awarded an Air Force Commendation Medal. As standards and evaluations flight commander, she supervised more than 200 flight nurses and medical technicians.

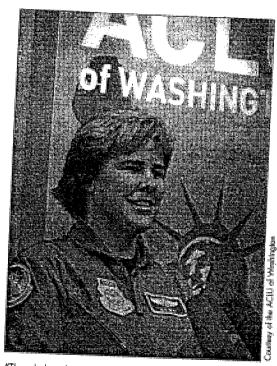
After returning from her unit's Persian Gulf duties in 1995, Witt became a regular air force reservist, while holding civilian jobs as an RN and physical therapist. In 2003 her sixyear relationship with a civilian woman came to an end; in 2004 Major Witt, then assigned to McChord Air Force Base in Tacoma, Washington, was informed of an air force investigation of alleged "homosexual conduct." Later that year, as a preliminary to formal separation procedures, she was placed on unpaid leave and barred from performing military duties.

In March 2006 the 42-yearold learned that she was being discharged, and in April the American Civil Liberties Union (ACLU) in Washington State filed a lawsuit against the air force on her behalf, challenging her dismissal. The ACLU will submit statements from military colleagues, saying that Major Witt's forced absence is harmful to her unit's morale. A discharge from the air force would mean that Witt, according to the lawsuit, "could no longer earn pay and points towards a retirement pension, that she could not participate in any duty pending resolution of her separation action, and that she was no longer eligible for promotion."

Discharges from the armed forces for alleged homosexuality are common, says James Lobsenz, her pro bono ACLU attorney, "but not usually after so many years of service," he says. He expects a lengthy case, with a likely appeal. Lobsenz previously represented an army sergeant who challenged his dismissal for being gay. After a decade, the U.S. Court of Appeals ruled that the army could not discharge the man.

In a statement, the Air Force Reserve Corps said, "Before any findings are reached, allegations remain as unsubstantiated allegations and it would be unfair and inappropriate for the Air Force to comment upon any unresolved case."

According to the Servicemembers Legal Defense Network, the "don't ask, don't tell, don't pursue, don't harass" policy has led to the discharge of nearly 10,000 personnel. The ANA opposes the "don't ask, don't tell" policy; at its 2003 annual



"The whole policy seems to be such a waste of talent," says Major Margaret Witt of the U.S. military's "don't ask, don't tell, don't pursue, don't harass" approach to the sexual orientation of service members. Witt was discharged from the air force in April for "homosexual conduct."

meeting, the ANA's House of Delegates directed the association to communicate with Congress, the president, and the Joint Chiefs of Staff, "urging the military to abandon discrimination against lesbians and gays."

"I love my job and the people," says Witt. "I've gotten nothing but support from everyone in my unit."

While still enthusiastic, Witt says, "The whole policy seems to be such a waste of talent." And it appears that the air force can hardly afford to lose experienced nurses: the air force reserve had 121 vacancies for flight nurses at the rank of major, as of April.—Carol Milano

SR.com: Lesbian reservist goes to court

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Lesbian reservist goes to court

Fights discharge from military

Richard Roesler Staff writer April 13, 2006

SEATTLE – Saying that the U.S. Constitution trumps military regulations, attorneys for lesbian Air Force Reserve Maj. Margaret Witt on Wednesday sought a federal injunction to prevent the service from kicking her out.

"We recognize we have our work cut out for us," said pro-bono attorney Jim Lobsenz. But he said Air Force regulations and this particular statute are unconstitutional.

It is illegal discrimination to ban homosexuals from military service, said another of Witt's lawyers, American Civil Liberties Union attorney Aaron Caplan.



Witt ()

"The United States should not give effect to prejudice," Caplan said. "There are people in the military who are likely bigots, who don't like black people. We don't give in to

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The case was filed Wednesday in U.S. District Court in Tacoma.

Supporters of the current policy argue that there are legitimate reasons for it. Given the military's close living conditions, said Center for Military Readiness President Elaine Donnelly, Congress overwhelmingly decided that it wouldn't be appropriate to force people to expose themselves to people sexually attracted to them.

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unconstitutional.

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"We don't expect women to routinely bed down and shower" with men they work alongside, she said. "The law basically reflects the desire for human modesty."

And the courts have historically deferred to the military regulations, she said.

"The armed forces are different from the civilian world," Donnelly

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Witt and her lawyers take hope, however, from a 2003 Supreme Court decision ruling a Texas sodomy law

"Liberty presumes an autonomy of self that includes freedom of thought, belief, expression, and certain intimate conduct," Justice Anthony Kennedy wrote in the majority opinion in Lawrence v. Texas.

Witt's case mirrors a still-pending 2004 Massachusetts suit by a dozen homosexual military members seeking reinstatement. Both lawsuits argue that the ban and the military's "don't ask, don't tell" regulations violate the constitutional rights to due process and free speech.

"The 'don't ask, don't tell' policy says you can believe these things in your heart but you can't act on them," said Caplan. "The Lawrence case says 'Get real.' "

Dressed in her Air Force flight suit, Witt faced a phalanx of reporters and news cameras in a Seattle law office Wednesday. She showed them medals and commendations, including one for saving the life of a 60-year-old Defense Department worker who collapsed midflight. Her photo is featured in two recruiting pamphlets for the Air Force nursing program.

A Pacific Lutheran University graduate, Witt joined the Air Force in 1987 after a short stint as an operating-room nurse at Tacoma General Hospital. An active-duty officer for nine years, she became a reservist in 1995. In civilian life, she's a physical therapist in

In the summer of 2004, someone apparently told the Air Force that Witt was a lesbian. In a subsequent interview with an Air Force investigator, a civilian woman said that she and Witt "had engaged in a committed and loving relationship from July 1997 through October 2003," according to court paperwork.

On Nov. 4, 2004, Witt was called to her commander's office at McChord Air Force Base. The commander told Witt to stop reporting for reservist duty. The Air Force was discharging her "on grounds of homosexual conduct." Witt was told to pack up her office immediately and leave. Witt said she was stunned and speechless.

"My unit was my extended family, and the Air Force was my extended family," she said AF000702

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"I miss it very much ... It's devastating."

Her attorneys have interviewed 10 of her colleagues at the 446th Aeromedical Evacuation Squadron.

"They don't understand why this is being done," said Lobsenz. "They want her back."

"In fact, a lot of them thought she was gay," said Caplan. "Adult woman, never talks about men. And that was fine with them. They didn't care."

Capt. Jennifer Gerhardt, a spokeswoman for McChord's 446th Airlift Wing, said she couldn't discuss the case.

"I can't really comment because of the Privacy Act," she said.

As Witt's attorneys pointed out, many of America's military allies allow openly gay or lesbian troops to serve. Among them: Australia, Canada, Israel, Britain and the Netherlands.

Donnelly's response: "We do not take our law from foreign governments."

Witt is also appealing to the Air Force's Administrative Discharge Board, which is expected to convene a hearing in Georgia soon. But her lawyers say there's little reason for hope there. Under Air Force regulations, they said, the board's main focus will be to decide whether Witt is a lesbian or not. "Nobody's denying that," said Lobsenz.

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Tip' Leads To Lesbian Air Force Nurse's DADT Discharge by 365Gay.com Newscenter Staff

April 13, 2006 - 11:00 am ET

(Seattle, Washington) For 19 years Major Margaret Witt served the Air Force with distinction. She served in the Persian Gulf, received medals, and was featured in a recruitment flyer for the Air Force Nurse Corps.

But after commanders received an anonymous tip in 2004 that she is a lesbian and in a long-term relationship the military began an investigation that led to her discharge under 'don't ask, don't tell' the military's ban on gays serving openly.

This week Witt began a lawsuit to get back her job. The suit, filed on by the ACLU on her behalf, charges the military acted unconstitutionally and seeks an injunction reversing the discharge.

'Don't ask, don't tell' requires that a commander receive "credible evidence" that a service member is lesbian or gay before beginning an investigation.

"Unfortunately, however, the definition of 'credible evidence' is determined by the command," Steve Ralls, a spokesperson for the Servicemembers Legal Defense Network told 365Gay.com.

"SLDN has represented numerous service members who were investigated based on questionable information, including anonymous emails and accusations made by individuals who were clearly untrustworthy," Ralls said.

"'Don't ask, don't tell' has become an effective weapon in the armed forces, where rumor, innuendo and hearsay can mean the end of an otherwise promising career.

Witt joined the Air Force in 1986. She served in the Persian Gulf and in 2003 was awarded an Air Force Commendation Medal for her action in saving the life of a Department of Defense employee who had collapsed aboard a government-chartered flight from Bahrain.

In 1993, she was selected to be the "poster child" for the Air Force Nurse Corps recruitment flyer. AF000704

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Most recently she was a flight nurse and operating room nurse assigned to McChord Air Force Base near Tacoma, Washington.

It was while at McChord that her commanding officer began an investigation into her private life after receiving "a tip" from an unidentified source that Witt was in a relationship with another woman, a fact she does not deny.

In November 2004, Major Witt was placed on unpaid leave and told she could no longer participate in any military duties, pending formal separation proceedings. In March 2006, the Air Force informed Major Witt that she was being administratively discharged on grounds of homosexual conduct.

"I joined the Air Force because I wanted to serve my country. I have loved being in the military – my fellow airmen have been my family. I am proud of my career and want to continue doing my job," said Witt. "Wounded people never asked me about my sexual orientation. They were just glad to see me there," she added.

"Major Margaret Witt has been an exemplary member of the military with a distinguished record of service. To discharge her simply because of her sexual orientation is unfair and does not make our military stronger," said ACLU of Washington Executive Director Kathleen Taylor.

In a previous ACLU case, Lobsenz represented Army Sgt. Perry Watkins, who challenged his dismissal from the military for being gay. In 1989, the U.S. Court of Appeals for the Ninth Circuit ruled that, as a matter of fairness, the Army could not discharge Watkins.

Twelve lesbian and gay former members of the military are involved in a federal suit in Boston seeking reinstatement. Represented by SLDN oral arguments were held last July and a decision is pending.

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Thursday. April 13, 2006 - Page updated at 12:00 AM

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Lesbian challenges military policy

By Tan Vinh Seattle Times staff reporter

A decorated McChord Air Force Base major, who was once featured in a national recruiting pamphlet, sued the military Wednesday after she was suspended for being a lesbian.

Expecting her commanding officer to dismiss her after 19 years of service, Margaret Witt, a flight nurse from Spokane, filed an injunction in U.S. District Court in Seattle seeking to prevent her discharge.

both with local ties, that challenge the



ALAN BERNER! THE SEATTLE

Margaret Witt says at a news conference Wednesday, "My objective really is to go back to my unit [and] serve my country.'

Witt's case is one of two active lawsuits, constitutionality of the military's ban on openly gay personnel, under a

policy known as "don't ask, don't tell." In Boston, a federal court is hearing a case involving a dozen service members, including three from Washington, who want their jobs back.

Dressed in her flight suit and holding her medals and commendation letters, Witt, 42, said that despite the attempts to kick her out of the military, she wants to return to the only life she has known for the past two decades: nine in the Air Force and nearly 10 in the Air Force Reserves.

"My objective really is to go back to my unit, serve my country and help the injured troops that need me at this time," she said at a news conference at the office of the American Civil Liberties Union (ACLU), which filed the suit on her behalf. "My unit is my ... family."

A nursing graduate from Pacific Lutheran University in Parkland, Pierce County, Witt joined the Air Force in March 1987 and quickly rose through the ranks. She was included in a 1993 Air Force recruitment pamphlet carrying the headline "Air Force Nursing makes the difference."

Witt, who is technically still a member of the 446th Aeromedical Evacuation Squadron at McChord, has provided medical assistance and helped

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transport injured U.S. soldiers and other multinational-coalition forces in the

Although she never told colleagues about her sexual orientation, her superiors received a tip. According to court documents, in summer 2004, the Air Force began an investigation and interviewed a civilian who said she had been in a sexual relationship with Witt from July 1997 through October

A year later, the Air Force ruled her "ineligible" for service and promotion, and Witt, now a physical therapist, could no longer earn "pay or points toward a retirement pension," according to court documents. The ACLU said the Air Force has begun the "paper work" to discharge her.

The Air Force declined to comment.

Witt's attorney, Jim Lobsenz, handling the case on behalf of the ACLU, said the U.S. Constitution "trumps other rules," including the military's ban on gays. In the 1980s, Lobsenz won a landmark case when the U.S. 9th Circuit Court of Appeals ruled that the Army could not discharge his client, Sgt. 1st Class Perry Watkins of Tacoma, just because he was gay.

About 650 military personnel were discharged in 2004 because they were gay, according to the Servicemembers Legal Defense Network, an advocacy group that tracks the issue.

Tan Vinh: 206-515-5656 or tvinh@seattletimes.com

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03:19 PM PDT on Wednesday, April 12, 2006

By TONYA MOSLEY / KING 5 News and KING5.com Staff

SEATTLE -Major Margaret Witt, who is assigned to McChord Air Force Base

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Tonya Mosley reports

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near Tacoma, says she exemplified everything the United States Air Force looked for in a flight nurse.

During her 19-year career, Witt served in the Persian Gulf, received several medals, and was even featured in an Air Force Nurse Corps recruitment flyer.

"I did my job to the best of my ability. I did my job well," she said. "Wounded people never asked me about my sexual orientation. They were just glad to see me there."

But Witt says the military's view of her changed in 2004 when she was notified that the Air Force had begun an investigation her sex life.

"It was a complete shock, really. I was in shock," she said.

She says several months later, she was placed on unpaid leave and told she could no longer

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KING

Major Margaret Witt

proceedings. Last month, she was discharged on grounds of "homosexual conduct."

The American Civil Liberties Union of Washington has filed a lawsuit on Witt's behalf.

"Major Witt is gay, but this does not affect her job performance," said ACLU attorney Aaron Caplan.

Witt says her sexual orientation should not determine if she's fit to serve her country.

Caplan said he is confident that Witt will be able to get her job back.

In a previous ACLU case in 1989, Army Sgt. Perry Watkins challenged his dismissal for being gay. The U.S. Court of Appeals for the Ninth Circuit ruled that, as a matter of fairness, the Army could not discharge Watkins.

"My objective is to go back to my unit, serve my country and help the injured troops that need me," said Witt.

Witt graduated from Pacific Lutheran University in Tacoma with a degree in Nursing in 1986 and joined the Air Force the next year. In her civilian life, she works as a physical therapist in Spokane.

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